



City Attorney

DATE: October 26, 2020
FROM: Jannelle Combs, City Attorney
ITEM: Pandemic Mitigation Declaration

REQUEST

Consider approval of a Pandemic Mitigation Declaration

Please place this item on the 10/27/2020 regular City Commission meeting agenda.

BACKGROUND INFORMATION

On October 22, 2020, the Bismarck City Board of Health met and moved to have a mask mandate and North Dakota Smart Restart guideline adoption drafted for consideration at the regular City Commission meeting. Staff met with the movant, Commissioner Guy, to draft a possible declaration.

This is drafted as a power under the Commission's emergency powers due to the COVID-19 pandemic. We used the Fargo/Minot mask mandate as well as the West Fargo and Valley City plans/strategies, all of which are also attached. However, we did modify that the state guidelines. The draft eliminates a restriction on maximum occupancy to a set number, added a safe haven for businesses to avoid any penalty, no penalty to individuals and allows for those who are unable to wear a mask to obtain their services in alternate ways, which such accommodations are required under the Americans with Disabilities Act anyway. We also provided that the City Commission can amend or end the Declaration at any time, as well as the immediate termination if the state of emergency has ended.

The penalty for business is purely financial. As our office would be the ones to enforce this item, we would do as we always do. First, law enforcement always does education. Second, if the circumstances appear inadvertent after that general education, law enforcement often does warnings. Finally, all of the civil infractions (like this) or even criminal penalties (which this is not) are usually used with a beginning of a smaller fine, which increases after each conviction. I would recommend \$100 for first offense, \$200 for second, \$400 for third, \$800 for fourth and \$1000 for fifth. The Judge would have the power to remove any permits or certificates of occupancy or any other action if a business is blatantly disobeying the Declaration with more violations. These are all

remedies that would rarely get used unless a business is refusing to apply the items listed and would go through legal process.

RECOMMENDED CITY COMMISSION ACTION

Consider approval of the Pandemic Mitigation Declaration.

STAFF CONTACT INFORMATION

Janelle Combs | City Attorney, 355-1340 or jcombs@bismarcknd.gov

WHEREAS, COVID-19 is a severe respiratory illness, caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a threat to the health and safety of the residents of the City of Bismarck; and

WHEREAS, no vaccine is currently available to prevent COVID-19 and there is limited success in treating COVID-19; and

WHEREAS, United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency for COVID-19 on January 27, 2020; and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of a national emergency due to the growing COVID-19 crisis in the United States; and

WHEREAS, on March 13, 2020, Governor Doug Burgum issued a declaration of a state emergency in response to the public health crisis resulting from the novel coronavirus (COVID-19); and

WHEREAS, on March 13, 2020, Chairperson Jerry Woodcox issued a health Emergency Declaration and from March until October 26, 2020, Bismarck City Commission President Steve Bakken has issued a State of Emergency Declaration due to COVID-19, which are both still in effect and at this time over 6,000 Burleigh County residents have been infected and 75 have died; and

WHEREAS, Bismarck ordinance 2-08-03(B) allows for a written declaration during an emergency to prohibit or limit the number of persons who may gather, control the use of clothing or goods, utilize all available resources reasonably necessary to manage the emergency and order segregation of persons when reasonably necessary to prevent transmission of infectious or contagious agents; and

WHEREAS, N.D.C.C. § 23-35-08(5) provides that a local Board of Health, which is entirely comprised of the City Commission, may make rules regarding any cause of sickness which are necessary for public health and safety, and

WHEREAS, the layered mitigation approach of wearing a mask, social distancing and practicing good hand hygiene decreases the spread of COVID 19 when practiced in a consistent manner across populations.

NOW, THEREFORE, BE IT RESOLVED:

1. Definitions. For purposes of the Pandemic Mitigation Declaration, the following definitions shall apply:

- a. "Face Covering" means a paper or two-layered cloth face mask that covers the nose and mouth completely and includes a paper or disposable face mask or a religious face

covering. Face Coverings that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient because they allow exhaled droplets to be released into the air.

b. “Business” or “Businesses” are broadly defined to include entities that employ or engage workers, or are open to the public, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments that are in the Bismarck corporate city limits.

c. “Social Distancing” means individuals keeping at least 6 feet of distance from other individuals for any amount of time who are not members of their Household.

d. “Household” means a group of individuals who share the same living unit.

2. Implementation. The City of Bismarck adopts a portion of the ND Smart Restart Plan guidelines that became effective on October 15, 2020, with modifications as attached Exhibit A or as detailed below, to help reduce the spread of COVID-19.

3. Businesses. All Businesses shall follow the limit on the number of occupants allowed inside the Business at any one time. Businesses shall limit occupancy to a percent of the maximum occupancy of the building as listed in Exhibit A for the Risk Level established for Burleigh County so long as Social Distancing can be maintained. Businesses shall implement Social Distancing practices and require all occupants to wear Face Coverings. The following Businesses shall incorporate the following practices:

a. Restaurants. All individuals who enter restaurants, bars, breweries, and similar on-site establishments must wear a Face Covering from the time they enter the establishment to the time they are seated. Individuals shall wear a Face Covering when they are not seated at their table.

b. Liquor Establishments. All restaurants, bars, breweries, and similar on-site establishments who partake in the sale of liquor shall implement Social Distancing practices and limit occupancy to a percent of the maximum occupancy of the building as the percentage is listed in Exhibit A for the Risk Level established for Burleigh County, so long as Social Distancing can be maintained.

c. Public Transportation, Rideshares, Uber, Lyft, Bis-Man Transit, Paratransit and Taxi. All individuals providing public transportation, rideshare, Uber, Lyft, Bis-Man Transit, Paratransit or taxi services shall wear a Face Covering while transporting passengers. Passengers shall wear a Face Covering from pick-up to arrival at the destination.

4. Large Gatherings. All individuals holding large indoor and/or outdoor gatherings shall follow the following practices:

a. Limit Occupants. All indoor and/or outdoor gatherings expecting 50 or more people shall limit occupancy to a percent of the maximum occupancy of the building as the percentage is listed in Exhibit A for the Risk Level established for Burleigh County, so long as Social Distancing can be maintained. Any indoor and/or outdoor gathering expecting 15 or more people shall require Face Coverings for all attendees, except if at a wedding, the bride and groom are exempted from this on the date of their marriage.

b. Authorization. Indoor and/or outdoor gatherings expecting 50 or more people are allowed if approved by the City of Bismarck Environmental Health division. The City of Bismarck requires event planners to submit a logistics and emergency operations plan to

the City Administrator at 221 North 5th Street, Bismarck, ND 58501 no later than 7 days prior to the event.

5. Face Coverings Required. Every person within the City of Bismarck shall wear a Face Covering in all indoor settings open to the public where a person is exposed to non-Household members and where Social Distancing of 6 feet or more cannot be assured. The following shall be exempt from wearing a Face Covering:

- a. Persons younger than age 2.
- b. Persons with a medical condition or disability that prevents wearing a Face Covering, except that in a Business, if a person cannot wear a Face Covering due to disability, the Business shall provide accommodation for their services to be provided by alternate means outside or through other means. If a documented medical condition cannot be accommodated through other means, a plan approved by the City of Bismarck Environmental Health will also be an approved exception.
- c. Persons swimming while in the swimming pool, as is defined by Bismarck zoning ordinances.
- d. Persons driving a motor vehicle alone or with passengers from the driver's Household; however, Face Coverings are required for those described in Section 3(c) relating to public transportation, rideshares, Uber, Lyft, and taxi.
- e. Persons receiving services that require access to the face for security, surveillance, medical or dental services may temporarily remove a Face Covering while receiving those services that necessitate the removal of the Face Covering for the service to be conducted.
- f. Persons receiving personal care services, so long as they follow the guidelines for personal care services guidelines as provided under the North Dakota Smart Restart.
- g. Persons voting; however, Face Coverings are strongly encouraged.
- h. Persons that are 6 feet from any other individual while they are giving a speech or performance for broadcast or to an audience.

6. Enforcement of Other Applicable Laws. The Pandemic Mitigation Declaration shall not prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws in removing violators at the request of Businesses or other property owners.

7. Penalty. If a Business does not comply with the requirements of the Pandemic Mitigation Declaration with its operations or employees or allows its customers to violate the conditions of this Pandemic Mitigation Declaration on the Business' property, the Business can be subject to a fine of up to \$1,000.00. A Business shall have a good faith defense if their employee(s) and operations follow the Declaration, the Business has posted signs in conspicuous locations, requests compliance of the customer with the Declaration and requests the customer to immediately leave if the customer continues to fail to comply with this Declaration. If the customer refuses to leave, then the Business should reach out to law enforcement for assistance and not take any measures on their own, other than the Business must ban any customer for the duration of this Declaration who requires law enforcement assistance for their removal.

8. Application. This Declaration shall not apply to Bismarck Public School District property or operations, colleges, universities, hospitals, long term care, basic care and assisted living facilities, which are already under their own regulations.

9. Effective Date and Term. The New Mask Declaration shall take effect at 12:01 a.m. CT _____, _____, 2020, and shall remain in effect until the underlying state of emergency with the State of North Dakota has ended, unless it is sooner modified or terminated by motion or resolution approved by the Bismarck City Commission.

DATED at Bismarck, Burleigh County, North Dakota this ____ day of October, 2020.

Steve Bakken
President, Bismarck City Commission

Guidance for Decision Making: North Dakota Health Criteria and Health Indicator Measures

The ND health criteria and health indicator measures will be used to guide decisions regarding county risk levels. The Department of Health and the Governor’s Office, in conjunction with other state agencies, will use these measures to provide a framework for decision making. Additional factors will be taken into consideration to determine the county risk level on a recurring basis. Additional factors may include, but are not limited to, population density, hospitalization rates, current active cases within a county, etc.

Gating Criteria 14 Day	Critical	High Risk	Moderate Risk	Low Risk	New Normal
Active Cases/10K (14 Day Rolling Average)	Over 40	30-39	20-29	10-19	10 or less
Tests/10K (14 Day Rolling Average)	Under 20	21-30	31-40	41-45	46 or more
14 Day Rolling Average Percent Positive Tests	Over 15%	10-14.99%	5-9.99%	2-4.99%	Under 2%

Figure 6: Industry Summary of Color-Coded Health Guidance

Select Industry	Critical	High Risk	Moderate Risk	Low Risk	New Normal
Essential* Workplaces/ Manufacturing	<p>See DOH Essential Workers Fact Sheet*</p> <p>Employers of functioning critical infrastructure sectors exercise caution, with employees working remotely when possible, evaluating workforce concerns, implementing policies informed by industry best practices, and enacting strategies to minimize economic impact. Businesses that necessitate on-site work should pre-screen and monitor employees for symptoms; comply with social distancing guidelines; ensure workers use face coverings in accordance with CDC and OSHA guidance and Smart Restart protocols; and follow cleaning guidelines. Restrict unnecessary visitors from entering the workplace. Encourage testing for symptomatic employees and close contacts identified in the workplace.</p>			<p>Employers are encouraged to allow flexible working arrangements (rotating shifts, remote, etc.). Pre-screen and monitor employees for symptoms. Follow social distancing guidelines. Ensure workers use face coverings in accordance with CDC and OSHA guidance and Smart Restart protocols. Follow cleaning guidelines. Encourage testing for symptomatic employees and close contacts identified in the workplace.</p>	<p>Operate under heightened hygiene and cleaning standards. Monitor employees for symptoms.</p>
General Employer Standards for All Industries Specific Types of Employers expanded below	<p>██████████ Employers exercise caution, with employees working remotely when possible, evaluating workforce concerns, implementing policies informed by industry best practices, and enacting strategies to minimize economic impact. Businesses that necessitate on-site, essential work pre-screen and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Limit occupancy ratings of room and confined spaces to 25% capacity ██████████. Restrict unnecessary visitors from entering the workplace. Encourage testing for symptomatic employees and close contacts identified in the workplace. Cancel work-related gatherings (staff meetings, after-work functions).</p>		<p>Non-essential services may reopen. Employers exercise caution, with employees working remotely, evaluating workforce concerns, and enacting strategies to minimize economic impact. Businesses that necessitate on-site work pre-screen and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Limit occupancy ratings of room and confined spaces to 50% capacity ██████████. Restrict unnecessary visitors from entering the workplace. Encourage testing for symptomatic employees and close contacts identified in the workplace. Cancel work-related gatherings (staff meetings, after-work functions).</p>	<p>Employers are encouraged to allow flexible working arrangements (rotating shifts, remote, etc.). Pre-screen and monitor employees for symptoms. Follow social distancing guidelines. Limit occupancy ratings of room and confined spaces to 75% capacity ██████████. Strongly recommend or require use of face coverings. Follow cleaning guidelines. Encourage testing for symptomatic employees and close contacts identified in the workplace.</p>	<p>Operate under heightened hygiene and cleaning standards. Monitor employees for symptoms.</p>
Restaurants, Bars & Food Service	<p>Curbside pickup, takeout, and delivery is recommended. No ██████████ customer self-service and caution taken in food prep. If dine-in service is open, limit to 25% of normal seating capacity. No standing room options. No customer self-service of food or beverage (salad bars, buffets, fountain drinks, coffee). Pre-screen and monitor employees for symptoms, comply with guidelines for social distancing, require use of face coverings, follow cleaning guidelines. Contactless payment encouraged. Create a safe environment for staff. ██████████</p>		<p>Curbside pickup, takeout, and delivery options preferable. Dine-in service limited to 50% of normal seating capacity. No standing room options; dine-in seating only. Customer self-service of food and beverage (salad bars, buffets, fountain drinks, coffee) is restricted following Smart Restart protocols. Pre-screen and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Strongly recommend dine-in seating customers follow CDC's guidance for wearing face coverings before and after meal service. Contactless payment encouraged. ██████████ Limited use of gaming machines may be considered following distancing guidance and Smart Restart protocols. ██████████</p>	<p>Employers are encouraged to allow flexible working arrangements (rotating shifts, remote, etc.). Dine-in service is limited to 75% of normal seating capacity with caution. Standing room options may be considered with caution while maintaining social distancing. Limited customer self-service of food and beverage (salad bars, buffets, fountain drinks, coffee) may be considered following Smart Restart protocols. Pre-screen and monitor employees for symptoms; comply with social distancing guidelines; strongly recommend or require use of face coverings; and follow cleaning guidelines. Blackjack and gaming tables can resume with precautions taken for social distancing while minimizing transmissible moments.</p>	<p>Operate under heightened hygiene and cleaning standards. Monitor employees for symptoms. Resume to normal capacity and operations (dance floors, standing, blackjack) while continuing to follow new protocols.</p>

Select Industry	Critical	High Risk	Moderate Risk	Low Risk	New Normal
Retail* (Including grocery stores, C-stores & pharmacies)	Employers exercise caution, with employees working remotely when possible, evaluating workforce concerns, managing risk, implementing policies informed by industry best practices, and enacting strategies to minimize economic impact. Businesses that necessitate on-site work pre-screen and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Restrict unnecessary visitors from entering. Retail stores with foodservice must follow Smart Restart protocols for restaurants and bars (above).		Employers exercise caution, with employees working remotely when possible. Businesses that necessitate on-site work pre-screen and monitor employees for symptoms. Non-essential services may consider opening following Smart Restart protocols with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Restrict unnecessary visitors from entering the workplace. Encourage testing for symptomatic employees and close contacts identified in the workplace. Cancel work-related gatherings (staff meetings, after-work functions). Retail stores with foodservice must follow Smart Restart protocols for restaurants and bars (above).	Employers are encouraged to allow flexible working arrangements (rotating shifts, remote, etc.). Pre-screen and monitor employees for symptoms; comply with social distancing guidelines; strongly recommend or require use of face coverings; and follow cleaning guidelines. Retail stores with foodservice must follow Smart Restart protocols for restaurants and bars (above).	Operate under heightened hygiene & cleaning standards. Monitor employees for symptoms. Resume to normal capacity of foodservice operations while continuing to follow new protocols.
Hotel, Tourism, & Accommodations	Limited operations. Take precaution for staff & guests. No customer self-service of food or beverage (continental breakfast, coffee). Pre-screen and monitor employees for symptoms, comply with guidelines for social distancing, require use of face coverings, follow cleaning guidelines. For gatherings, limit occupancy to 25% of rated room capacity [redacted] when social distancing precautions can be met. Cancel gatherings of any size where distancing cannot be maintained. Dance floors are closed. Hotels with amenities of foodservice must follow guidelines for restaurants and bars. Amenities such as fitness rooms, and recreational pool facilities must follow guidelines for fitness centers and recreational pools and water venues.		Hotels with amenities such as foodservice, fitness rooms, and recreational pool facilities may resume following Smart Restart protocols. Gatherings of 50% room capacity [redacted] are allowed provided health criteria is met and Smart Restart protocols are followed. Businesses that necessitate on-site work pre-screen and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Cancel gatherings of any size where distancing cannot be maintained. Dance floors are closed. Pools may open following social distancing guidelines, CDC recommendations, aquatic health codes, and pool operator protocols.	Hotels with amenities such as foodservice, fitness rooms, and recreational pool facilities follow Smart Restart protocols. Gatherings of up to 75% room capacity [redacted] are allowed provided health criteria is met, and Smart Restart protocols are followed. Pre-screen and monitor employees for symptoms; comply with social distancing guidelines; strongly recommend or require use of face coverings; follow cleaning guidelines. Limit occupancy of gatherings where distancing cannot be maintained. Pools may open following social distancing, CDC recommendations, aquatic health codes, and pool operator protocols.	Operate under heightened hygiene & cleaning standards. Monitor employees for symptoms. Conventions and large events are permitted with safety guidance and procedures. Resume to normal capacity of foodservice operations while continuing to follow proper safety guidance and procedures.
Events & Gatherings	For gatherings, limit occupancy to 25% of rated room capacity [redacted] when social distancing precautions can be met. Cancel gatherings of any size where distancing cannot be maintained. Require face coverings. Catering and foodservice must follow Smart Restart protocols for restaurants and bars (see above).		Limited operations. Take precaution for staff & guests. Gatherings in facilities can be up to 50% certificate of occupancy for that room [redacted] provided that health criteria is met and Smart Restart protocols are followed. Businesses that necessitate on-site work pre-screen and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines. Cancel gatherings of any size where distancing cannot be maintained. Catering and foodservice must comply with restaurant and Smart Restart protocols (see above).	Expanded operations. Take precaution for staff & guests. Gatherings in facilities can be up to 75% certificate of occupancy for that room [redacted] provided that health criteria is met, and Smart Restart protocols are followed. Strongly recommended or require face coverings for all workers and attendees. Limit occupancy where social distancing cannot be maintained. Catering and foodservice must comply with restaurant Smart Restart protocols (see above).	Operate under heightened hygiene & cleaning standards. Monitor employees for symptoms. Large groups allowed such as festivals and sporting events. Mass gatherings are permitted when following proper safety guidance and procedures.

Select Industry	Critical	High Risk	Moderate Risk	Low Risk	New Normal
Personal Care Services (Salons, Barbers, Tanning, Tattoo/Body Art, Massage Therapists)		Personal care services may open if face coverings are required for both clients and staff. If necessary, increase 6-ft distance between workstations. Keep records of clients for contact tracing purposes if needed. Set specific shopping/business hours for only customers that are at higher risk. Screen clients and employees for symptoms that includes temperature checks.	Personal care services may consider opening following Smart Restart protocols. Operate under strict hygiene protocols. <u>Pre-screen</u> and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines.	Operate under strict hygiene protocols. <u>Pre-screen</u> and monitor employees for symptoms; comply with social distancing guidelines; require use of face coverings; and follow cleaning guidelines.	Operate under heightened hygiene & cleaning standards. Monitor employees for symptoms.
Vulnerable Individuals in public places	Shelter in place	Stay Home. Stay Healthy. Stay Connected. Avoid crowds. Members of households with vulnerable residents take precautions. Public places require use of face coverings.	Stay Home. Stay Healthy. Stay Connected. Avoid crowds. Members of households with vulnerable residents take precautions. Public places should require use of face coverings.	Use caution; avoid large crowds when communities have resurgence of cases. Public places should strongly recommend or require face coverings.	Take every day public health and hygiene precautions and stay home when sick.

Source: North Dakota Department of Health.

Further details on protocols created for individual industries available at BeLegendary.link/NDSmartRestart If your business is not on this list, we thank you for exercising your best judgement and taking responsibility for keeping your customers and employees healthy



MAYORAL MASK MANDATE

THE CITY OF FARGO, NORTH DAKOTA

MANDATE -- COVID-19 -- FACE-COVERING REQUIRED

On March 16, 2020, I declared a state of emergency in the City of Fargo as a result of the COVID-19 pandemic which has since been approved and extended by the full City Commission.

On July 27, 2020, the Fargo City Commission approved a motion directing the public to wear masks where and when appropriate and encouraging stores and businesses to adopt policies prohibiting entry without the wearing of masks. The City of Fargo appreciates the sacrifice that individuals, businesses (including employees and other workers) are making in order to stem the tide of COVID-19 cases; however, the number of COVID-19 cases and deaths resulting continue to rise in the world, the nation and the state, including the City of Fargo. Each one of us—each resident, each adult, each child, each family, each business and each store—must do more. As a community, we must all do our part to greatly reduce the spread of this deadly COVID-19 disease and, therefore, I am issuing this **MANDATE** to every person, family, business and store in the City to adopt appropriate measures accordingly;

NOW, THEREFORE, IT IS HEREBY DECLARED, ORDERED AND MANDATED:

Article I. Definitions. – For purposes of this mandate, the following definitions shall apply:

- a. Face covering shall mean a paper or two-layered cloth face mask that covers the nose and mouth completely, and includes a paper or disposable face mask or a religious face covering.
- b. “Business” and “businesses” are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.
- c. “Social distancing” means individuals keeping at least six (6) feet of distance from other individuals who are not members of their household.
- d. “Household” means a group of individuals who share the same living unit.

Article II. COVID-19-Face Covering Required. -- Every person shall, within the city of Fargo, wear a face covering over the mouth and nose in all indoor environments where they are exposed to non-household members and where social distancing of six (6) feet or more cannot be assured and in all outdoor settings where there is exposure to non-household members, unless there exists ample space of six (6) feet or more to practice social distancing.

The following shall be exempt from wearing a face covering:

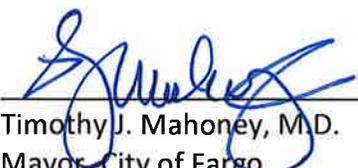
- a. Persons younger than school age, although parents and guardians are encouraged to have such younger children wear face coverings when and where appropriate;
- b. Persons with a medical condition or disability that prevents wearing a face covering;
- c. Persons performing job duties where a six (6) feet distance is not achievable, but a mask is inhibitory to the ability to safely and effectively perform the job duty;
- d. Persons participating in athletic activities where a six (6) feet distance is not achievable, but a mask is inhibitory to the activity;
- e. Persons actively consuming food or drink;
- f. Persons driving a motor vehicle alone or with passengers from the driver's household;
- g. Persons receiving services that require access to the face for security, surveillance, or other purposes may temporarily remove a face covering while receiving those services.
- h. Persons engaged in religious worship activities; however, face coverings are strongly encouraged;
- i. Persons giving a speech or performance for broadcast or to an audience; however, those persons shall safely distance from nearby individuals.

This mandate shall not prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws in removing violators at the request of businesses or other property owners.

Article III. No penalty.--Although these measures are being mandated with the strongest possible recommendation, there is no penalty for non-compliance with this mandate.

Article IV. Effective Date and Term.--This mandate shall take effect immediately and it shall remain in effect until the underlying state of emergency has ended unless it is sooner modified or terminated by the mayor or unless it is modified or terminated sooner by motion or resolution approved by the Fargo board of city commissioners.

DONE AND DATED this 19th day of October, 2020.



Timothy J. Mahoney, M.D.
Mayor, City of Fargo

THE CITY OF WEST FARGO, NORTH DAKOTA

CITY COMMISSION

COVID-19 – New Mask Strategy

On March 16, 2020, I declared a state of emergency in the City of West Fargo as a result of the Coronavirus Disease 2019 (“COVID-19”) pandemic. Since that time, under the leadership of Governor Burgum, the Department of Health, with input from statewide industry workgroups, developed the ND Smart Restart Plan, a phased approach for a health and economic recovery plan.

On October 14, 2020, with the active COVID-19 cases continuing to rise in North Dakota, Governor Burgum announced updates to the ND Smart Restart Plan guidelines to help reverse the trend and reduce the spread of COVID-19 in communities. Governor Burgum announced that effective 5:00 p.m. Friday, October 16, 2020, the updated ND Smart Restart Plan guidelines will be as follows for counties under the following risk designations:

- **Critical** (red): non-essential businesses closed
- **High** (orange): 25% occupancy with a cap of 50 people (changed from non-essential businesses closed); encourage businesses to require Face Coverings
- **Moderate** (yellow): 50% occupancy with a cap of 100 people (down from 250) encourage businesses to require Face Coverings
- **Low** (green): 75% occupancy with a cap of 200 people (down from 500)
- **New Normal** (blue): operate as usual

In addition, Governor Burgum announced that Cass County, North Dakota, moved from a moderate (yellow) risk to a high-risk (orange) level designation, which recommends reduced occupancy rather than business closures. The City of West Fargo acknowledges and appreciates the sacrifice that individuals and businesses (including employees and other workers) are making to stem the tide of COVID-19 cases; however, the number of COVID-19 cases and resulting deaths continue to rise in the world, the nation, and the state, including the City of West Fargo. Each one of us—each resident, each adult, each child, each family, and each business—must do more. As a community, we must all do our part to greatly reduce the spread of this deadly COVID-19 virus and, therefore, I am issuing this New Mask Strategy to every person, family, and business in the City of West Fargo to adopt appropriate measures accordingly.

NOW, THEREFORE, I DO HEREBY DECLARE:

1. Definitions. For purposes of the New Mask Strategy, the following definitions shall apply:

- a. “Face Covering” means a paper or two-layered cloth face mask that covers the nose and mouth completely and includes a paper or disposable face mask or a religious face covering. Face Coverings that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient because they allow exhaled droplets to be released into the air.
 - b. “Business” or “Businesses” are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.
 - c. “Social Distancing” means individuals keeping at least 6 feet of distance from other individuals who are not members of their Household.
 - d. “Household” means a group of individuals who share the same living unit.
2. Implementation. The City of West Fargo will implement the updated ND Smart Restart Plan guidelines that became effective on October 16, 2020, to help reduce the spread of COVID-19.
 3. Businesses. All Businesses are strongly encouraged to establish a limit on the number of occupants allowed inside the Business at any one time. Businesses are encouraged to limit occupancy to 25% with a cap of 50 people. Businesses are encouraged to implement Social Distancing practices and to require all occupants to wear Face Coverings. The following Businesses are strongly encouraged to incorporate the following practices:
 - a. Restaurants. All individuals who enter restaurants, bars, breweries, and similar on-site establishments are strongly encouraged to wear a Face Covering from time they enter the establishment to the time they are seated. Individuals are strongly encouraged to wear a Face Covering if not actively consuming food or drink.
 - b. Liquor Establishments. All restaurants, bars, breweries, and similar on-site establishments who partake in the sale of liquor are strongly encouraged to implement Social Distancing practices and to limit occupancy to 25% with a cap of 50 people.
 - c. Public Transportation, Rideshares, Uber, Lyft, and Taxi. All individuals providing public transportation, rideshare, Uber, Lyft, or taxi services are strongly encouraged to wear a Face Covering while transporting passengers. Passengers

are strongly encouraged to wear a Face Covering from pick-up to arrival at the destination.

4. Large Gatherings. All individuals holding large indoor and/or outdoor gatherings are strongly encouraged to incorporate the following practices:
 - a. Limit Occupants. All large indoor and/or outdoor gatherings are encouraged to limit occupancy to 25% with a cap of 50 people.
 - b. Authorization. Large indoor and/or outdoor gatherings are permitted if approved by the West Fargo City Commission and Fargo Cass Public Health. The City of West Fargo requires event planners to submit a logistics and emergency operations plan to the City Administrator no later than 30 days prior to the event.
5. Face Coverings Required. Every person within the City of West Fargo is strongly encouraged to wear a Face Covering in all indoor settings where they are exposed to non-Household members and where Social Distancing of 6 feet or more cannot be assured, and in all outdoor settings where there is exposure to non-Household members, unless there exists ample space of 6 feet or more to practice Social Distancing.

The following shall be exempt from wearing a Face Covering:

1. Persons younger than school age, although parents and guardians are encouraged to have such younger children wear Face Coverings when and where appropriate.
2. Persons with a medical condition or disability that prevents wearing a Face Covering.
3. Persons performing job duties where a 6 foot distance is not achievable, but a Face Covering is inhibitory to the ability to perform the job duty safely and effectively.
4. Persons participating in athletic activities where a 6 foot distance is not achievable, but a Face Covering is inhibitory to the activity.
5. Persons actively consuming food or drink.
6. Persons driving a motor vehicle alone or with passengers from the driver's Household; however, Face Coverings are strongly encouraged for those described in Section 3(c) relating to public transportation, rideshares, Uber, Lyft, and taxi.
7. Persons receiving services that require access to the face for security, surveillance, or other purposes may temporarily remove a Face Covering while receiving those services.
8. Persons voting, assisting voters, serving as poll watchers, or actively performing election administration duties; however, Face Coverings are strongly encouraged.

9. Persons engaged in religious worship activities; however, Face Coverings are strongly encouraged.
10. Persons giving a speech or performance for broadcast or to an audience; however, those persons shall Social Distance from nearby individuals.
6. Enforcement of Other Applicable Laws. The New Mask Strategy shall not prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws in removing violators at the request of Businesses or other property owners.
7. No Penalty. Although these measures are being declared with the strongest possible recommendation, there is no penalty for non-compliance with the New Mask Strategy.
8. Effective Date and Term. The New Mask Strategy shall take effect at **7:00 p.m. Wednesday, October 21, 2020**, and shall remain in effect until Governor Burgum modifies the ND Smart Restart Plan guidelines and/or the underlying state of emergency has ended, unless it is sooner modified or terminated by the President of the West Fargo City Commission or unless it is modified or terminated sooner by motion or resolution approved by the West Fargo City Commission.

APPROVED this 21st day of October, 2020.

Bernie L. Dardis,
President of the West Fargo City
Commission

ATTEST:

Tina M. Fisk, City Administrator



MAYORAL MASK MANDATE

City of Minot, North Dakota

MANDATE – COVID-19 – FACE COVERING REQUIRED

On March 16, 2020, the Minot City Council approved an emergency declaration relating to the COVID-19 pandemic.

On August 17th, 2020, the Minot City Council approved a resolution implementing a mask directive to strongly encourage all Minot residents, visitors and businesses to actively participate in the mitigation of COVID-19. Additionally, on August 17, 2020, the Minot City Council approved a temporary employment policy requiring all City employees to wear face masks while at work or interacting with the public when social distancing guidelines cannot be maintained.

The City of Minot appreciates the sacrifice that individuals, businesses (including employees and other workers) are making in order to stem the tide of COVID-19 cases; however, the number of COVID-19 cases and deaths resulting continue to rise in the world, the nation and the state, including the City of Minot. Each one of us – each resident, adult, child, family, business and store – must do more. As a community, we must all do our part to greatly reduce the spread of this deadly COVID-19 disease and, therefore, I am issuing this MANDATE to every person, family, business, and store in the City and to adopt appropriate measures accordingly.

NOW, THEREFORE, IT IS HEREBY DECLARED, ORDERED, AND MANDATED:

Article I. Definitions. – For purposes of this mandate, the following definitions shall apply:

- a. “Face covering” shall mean a paper or two-layered cloth face mask that covers the nose and mouth completely, and includes a paper or disposable face mask or a religious face covering.
- b. “Business” and “businesses” are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.
- c. “Social distancing” means individuals keeping at least six (6) feet of distance from other individuals who are not members of their household.
- d. “Household” means a group of individuals who share the same living unit.

Article II. COVID-19 Face Covering Required. – Every person shall, within the City of Minot, wear a face covering over the mouth and nose in all indoor environments where they are exposed to non-household members and where social distancing of six (6) feet or more cannot be

assured and in all outdoor settings where there is exposure to non-household members, unless there exists ample space of six (6) feet or more to practice social distancing.

The following shall be exempt from wearing a face covering:

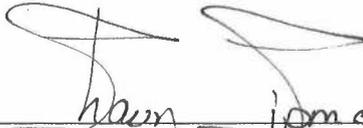
- a. Persons younger than school age, although parents and guardians are encouraged to have such younger children wear face coverings when and where appropriate;
- b. Persons with a medical condition or disability that prevents wearing a face covering;
- c. Persons performing job duties where a six (6) feet distance is not achievable, but a mask is inhibitory to the ability to safely and effectively perform the job duty;
- d. Persons participating in athletic activities where a six (6) feet distance is not achievable, but a mask is inhibitory to the activity;
- e. Persons actively consuming food or drink;
- f. Persons driving a motor vehicle alone or with passengers from the driver's household;
- g. Persons receiving services that require access to the face for security, surveillance, or other purposes may temporarily remove a face covering while receiving those services;
- h. Persons engaged in religious worship activities; however, face coverings are strongly encouraged;
- i. Persons giving a speech or performance for broadcast or to an audience; however, those persons shall safely distance from nearby individuals.

This mandate shall not prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws in removing violators at the request of businesses or other property owners.

Article III. No penalty. – Although these measures are being mandated with the strongest possible recommendation, there is no penalty for non-compliance with this mandate.

Article IV. Effective Date and Term. – This mandate shall take effect immediately and it shall remain in effect until the underlying state of emergency has ended unless it is sooner modified or terminated by the mayor or unless it is modified or terminated sooner by motion or resolution approved by the City Council.

DATED this 19 day of October, 2020.


Shaun Sipma
Mayor, City of Minot

City of Valley City

Emergency Order 2020-05 Effective 5:00 pm October 23, 2020

Pursuant to the COVID-19 emergency declaration dated March 17, 2020 (ratified and extended by the Board of City Commissioners on March 18, 2020), and the authority set forth in Valley City Municipal Code § 19-01-03, Dave Carlsrud, Mayor of the City of Valley City, North Dakota, in order to promote the health and safety of Valley City residents, hereby orders as follows:

Valley City Mask Plan (Risk Level Yellow/Moderate)

1. Definitions. For purposes of the City Mask Plan, the following definitions shall apply:
 - a. “Face Covering” means a paper or two-layered cloth face mask that covers the nose and mouth completely and includes a paper or disposable face mask or a religious face covering. Face Coverings that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient because they allow exhaled droplets to be released into the air.
 - b. “Business” or “Businesses” are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.
 - c. “Social Distancing” means individuals keeping at least 6 feet of distance from other individuals who are not members of their Household.
 - d. “Household” means a group of individuals who share the same living unit.

2. Implementation. The City of Valley City will implement the updated ND Smart Restart Plan guidelines that became effective on October 15, 2020, to help reduce the spread of COVID-19.

3. Businesses. All Businesses are strongly encouraged to establish a limit on the number of occupants allowed inside the Business at any one time. Businesses are encouraged to limit occupancy to 50% with a cap of 100 people. Businesses are encouraged to implement Social Distancing practices and to require all occupants, including employees, to wear Face Coverings. The following Businesses are strongly encouraged to incorporate the following practices:
 - a. Restaurants, Bars and Food Service. All visitors who enter restaurants, bars, breweries, and similar on-site establishments, should wear a Face Covering from the time they enter the establishment to the time they are seated. Visitors should be encouraged to wear a Face Covering if not actively consuming food or drink.
 - b. Public Transportation. All individuals providing public transportation services wear a Face Covering while transporting passengers. Passengers should be encouraged to wear a Face Covering from pick-up to arrival at the destination.

4. Large Gatherings. All individuals holding large indoor and/or outdoor gatherings are strongly encouraged to incorporate the following practices:
 - a. Implement Social Distancing practices and require all attendees, including employees, to wear Face Coverings.

- b. Large indoor gatherings are encouraged to limit occupancy to 50%. All gatherings should be capped at 100 people.
- c. Gatherings of any size where Social Distancing cannot be maintained should be cancelled.

5. Face Coverings Required. Every person within the City of Valley City is strongly encouraged to wear a Face Covering in all indoor settings where they are exposed to non-Household members and where Social Distancing of 6 feet or more cannot be assured, and in all outdoor settings where there is exposure to non-Household members, unless there exists ample space of 6 feet or more to practice Social Distancing.

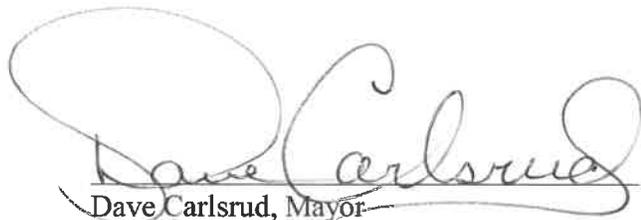
The following shall be exempt from wearing a Face Covering:

1. Persons younger than school age, although parents and guardians are encouraged to have such younger children wear Face Coverings when and where appropriate.
2. Persons with a medical condition or disability that prevents wearing a Face Covering.
3. Persons performing job duties where a 6 foot distance is not achievable, but a Face Covering is inhibitory to the ability to perform the job duty safely and effectively.
4. Persons participating in athletic activities where a 6 foot distance is not achievable, but a Face Covering is inhibitory to the activity.
5. Persons actively consuming food or drink.
6. Persons driving a motor vehicle alone or with passengers from the driver's Household.
7. Persons receiving services that require access to the face for security, surveillance, or other purposes may temporarily remove a Face Covering while receiving those services.
8. Persons engaged in religious worship activities; however, Face Coverings are strongly encouraged.
9. Persons giving a speech or performance for broadcast or to an audience; however, those persons shall Social Distance from nearby individuals.

6. Enforcement of Other Applicable Laws. The City Mask Plan shall not prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws in removing violators at the request of Businesses or other property owners.

8. Effective Date and Term. The City Mask Plan is effective at 5:00 p.m. Friday, October 22, 2020, and will remain in effect until Governor Burgum modifies the ND Smart Restart Plan guidelines and/or the underlying state of emergency has ended, unless it is sooner modified or terminated by the Mayor or unless it is modified or terminated sooner by motion or resolution approved by the Board of Commissioners.

APPROVED this 21st day of October, 2020.



Dave Carlsrud, Mayor